

**Montana State Legislature
Committee Presiding Officer
Procedures Manual**

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PREFACE

The committee process is the most direct citizen involvement with state government. A citizen's opinion regarding the Legislature is often formed as a result of participation in a committee hearing. All committee meetings are required to be open to the public. Hearings must be conducted fairly and in a manner that demonstrates respect for both the public and the members. The presiding officer is responsible for controlling the hearing process. Time is one of the most crucial elements in the legislative process. The hearing process must proceed efficiently and in an orderly manner and must adhere to the committee rules. The presiding officer must avoid the appearance of bias and should attempt to make witnesses feel at ease.

I. COMMITTEES IN THE MONTANA LEGISLATURE

The committee system is the essence of the legislative process. Legislators need to understand the workings and personnel of the committees as well as the etiquette that prevails when a bill is the subject of a committee hearing. The committees perform the essential functions of gathering public comment; reviewing, analyzing, and amending bills; and recommending the passage or disapproval of bills.

II. RESPONSIBILITIES OF THE COMMITTEE PRESIDING OFFICER AND STAFF

1. COMMITTEE PRESIDING OFFICER

A. The presiding officer of a committee is designated by the Speaker of the House or the Senate Committee on Committees. Under the Joint Rules, the presiding officer has general control and direction over the hall and the committee room.

B. During the first day or two of the session, the presiding officer, the committee secretary, and the committee staff should establish a working arrangement that will accomplish the presiding officer's plans and allow the staff to understand their responsibilities.

C. The presiding officer decides the scheduling of hearings on bills, sets the agenda for each committee meeting, and establishes the rules governing the hearings. For example, a presiding officer may allocate 40 minutes for testimony to be divided equally between proponents and opponents of a bill. The presiding officer always controls who has the floor during committee discussion, and committee members speak only after recognition by the presiding officer.

D. The committee presiding officer must schedule and post the date for hearing bills or resolutions assigned to the committee by the Speaker of the House or the President of the Senate. There are several considerations affecting the presiding officer's scheduling decisions, and the bill sponsors should be consulted regarding the considerations. Considerations include the following:

(i) Degree of controversy The presiding officer should try to schedule four or five bills a day if they are expected to be relatively noncontroversial or to schedule only one or two bills if strong disagreement is expected to develop at the hearing.

(ii) Degree of complexity A long or complicated bill may require all of the 2-hour period that a committee normally has for a hearing, while a short and simple bill, even if controversial, can usually be heard in a fraction of this time.

(iii) Number of expected witnesses If a large turnout is expected, the presiding officer sometimes makes special arrangements for hearing the bill in a larger room. This may require changing the time of the hearing to the evening or to a Saturday. Arrangements should be made through the Secretary of the Senate or the Chief Clerk of the House.

(iv) Subject matter relationship The leadership may request the scheduling of certain bills to facilitate work or to correspond to activity of the other house. Bills of a similar nature should, if possible, be heard at the same time to accommodate witnesses and to allow committee members to better understand the issues and options at the same or in consecutive hearings. Executive action on a bill may be delayed until all bills on a similar issue can be heard, because the committee may have to choose between or harmonize the bills.

E. The presiding officer should ask the committee secretary to send notice of hearings to sponsors and to post the bills to be heard. If possible, bills should be scheduled at least a week in advance of hearing. Current Senate rules require that the public be given at least 3 days' notice of a hearing in most cases. It is the practice of the House to give not less than 3 days' notice of a hearing.

F. The presiding officer must manage the workload and must not let the committee fall behind. Extra committee meetings may be necessary to keep the schedule current. However, the presiding officer should not schedule more bills than can reasonably be heard at a meeting.

G. If a sponsor is unable to present a bill in committee as scheduled, arrangements should be made for a substitute sponsor or the hearing should be rescheduled. Prior to rescheduling a hearing, a presiding officer should consider the inconvenience to witnesses who may have traveled great distances in order to testify.

H. In order to ensure that bills reach the floor for action as soon as possible, executive action on bills should be taken as soon as necessary information and testimony have been provided to and considered by the committee. As a general rule, executive action should not be taken on the same day that the bill is heard. If possible, the presiding officer should indicate a likely timeframe for executive action as a courtesy to parties interested in the bill.

2. COMMITTEE VICE OFFICERS

The majority and minority vice officers are also selected by the Speaker of the House or by the Senate Committee on Committees. The majority vice officer presides over committee meetings when the presiding officer is absent or is presenting a bill to the committee. The minority vice officer serves as a contact for the minority members and as presiding officer when both the presiding officer and the majority vice officer are absent or they are presenting bills.

3. COMMITTEE SECRETARY

The secretary's duties include posting bills as directed by the presiding officer, notifying bill sponsors of hearings, taking minutes of meetings, ensuring that witnesses register before testifying, recording committee votes, and ensuring that committee reports and amendments are contained in the committee record. The secretary also maintains for each member a book containing a copy of each bill referred to the committee and a copy of each fiscal note prepared for those bills.

4. COMMITTEE STAFF

An attorney or research analyst from the Legislative Services Division is assigned to most committees. Staff of the Legislative Environmental Policy Office are assigned to the Natural Resources Committees, and staff from the Legislative Fiscal Division are assigned to the House Appropriations and the Senate Finance and Claims Committees. The committee staff person's duties include drafting amendments to bills for the committee, reviewing bills for technical or legal problems, and conducting research for individual members or subcommittees. The staff person prepares the composite amendments necessary for committee reports. In addition to their committee work, staff members have other significant duties during session, including drafting legislation.

III. COMMITTEE OPERATION AND MANAGEMENT

1. QUORUM

After the committee is seated at the designated time, the presiding officer should ask the secretary to call roll in order to determine if the necessary quorum is present. The presiding officer may convene a meeting before all the members have arrived. Bills may be heard but may not be acted upon without a quorum. Hearing bills without a quorum is discouraged because of the difficulty of informing absent members of testimony and because of the perception that is created for the public. The Speaker of the House or the President of the Senate and the appropriate majority and minority leaders are ex officio nonvoting members of all standing committees and may be present for purposes of establishing a quorum. The members of the committee should be instructed to notify the presiding officer of anticipated absences. Before convening the committee, the presiding officer should inform the secretary of excused absences.

2. COMMITTEE RULES

Each committee should establish formal rules for the operation of the committee. The rules

should be posted and pointed out to witnesses before the beginning of each meeting. Each person who wishes to testify on a bill must sign a witness sheet that is usually located near the entrance to the committee room. The secretary will use the witness sheets to properly identify people testifying on a bill. The witness sheet becomes a part of the committee record. Witnesses are encouraged to submit written testimony, and the testimony may be submitted before the hearing. A House committee must use Chapter 3 of the House Rules in establishing formal rules for the operation of the committee. A copy of chapter 3 is contained in an appendix to this manual.

3. TIME MANAGEMENT

At the beginning of each hearing, it may be necessary to divide the available time so that each bill may receive equal consideration. The presiding officer may ask witnesses to designate through a show of hands upon which bill they wish to testify. Before the hearing, the presiding officer may ask proponents and opponents of a bill how much time their testimony is likely to take. The presiding officer may then announce the time allotted to each side and that the time limits will be enforced. The presiding officer should not try to divide the time within the established limits. If a witness takes more than a fair amount of the allocated time, others who share that point of view may not have sufficient time to present their testimony.

4. ORDER OF HEARING

The sponsor of the bill "opens" the testimony. A sponsor may introduce a constituent, lobbyist, or other person who brought the bill or issue to the sponsor's attention. The person identified by the sponsor should be the first proponent to testify. Proponents of the bill testify, and then opponents of the bill are given equal time. An interested person, such as an Executive Branch employee may testify as an "informational witness". After hearing a person's testimony, the presiding officer may designate the person as a proponent or as an opponent. After testimony of witnesses is complete, committee members may question witnesses. A member wishing to ask a question must be recognized by the presiding officer. Questions must be limited to the subject under consideration. Witnesses must confine their answers to the questions. Witnesses are not allowed to question other witnesses or committee members. After questions are completed, the sponsor is allowed to "close" on the bill. Questions are not allowed after the sponsor closes.

5. QUESTION ETIQUETTE

Committee members may not question each other during the hearing. Questions for committee members are reserved for executive session. Committee members may not abuse witnesses, and the presiding officer may not tolerate the abuse of a committee member by a witness.

6. ANTICIPATED ACTION

Normally, executive action is not taken at the time that a bill is heard. At the close of the hearing of a bill, the presiding officer may, as a courtesy to the public attending the hearing, state when executive action is contemplated.

7. EXECUTIVE ACTION

Executive action is the time for the committee to act on a bill. The executive action session is open to the public, but testimony is not taken. If there are no objections from the committee, a member may be allowed to ask questions of witnesses during executive action. This practice should be discouraged, but if it is allowed, fairness to both sides must be considered. Committee members may propose amendments to a bill during executive action. Although a witness may suggest an amendment during testimony, any amendment considered by the committee must be moved by a member. If possible, a member should ask the committee staff to prepare proposed amendments before executive action. This practice allows the proposed amendment to be distributed and discussed. Extensive or complicated amendments not prepared before executive action may require delay in order to allow the committee staff to write the amendments and to bring them to the committee for review. Simple amendments drafted after executive action may be approved by the presiding officer. If extensive amendments are offered, or if several bills on a subject are before the committee, the presiding officer may appoint a subcommittee to work on the bill or bills. After all proposed amendments have been moved and acted upon, action is taken on the bill as amended.

8. VOTING IN COMMITTEE

All votes on amendments and bills must be recorded and made public. If agreed upon by the presiding officer and the committee, an excused member may be allowed to vote by leaving a written vote or a proxy. Absentee voting procedures should be established in the committee rules. On many amendments and bills, a preponderance of the votes will be on one side of the question. The vote may be taken by a voice vote. Those not voting with the majority must be asked to identify themselves. The secretary is required to record the vote. Any member may request a roll call vote. The secretary should call the roll in the order directed by the presiding officer. Regardless of the voting method, the presiding officer should immediately announce the vote. If a bill has been referred to a subcommittee, the subcommittee report is received during executive action in the form of recommended amendments. Action on the amendments is the same as for all other amendments.

9. COMMITTEE MOTIONS

The motions in committee are as follows:

- (A) To amend: the motion is to propose to change the bill in a specified manner.
- (B) Do pass: the bill is recommended to be placed on second reading as received by the committee.
- (C) Do pass as amended: the bill is recommended to be placed on second reading with the amendments adopted by the committee engrossed into the second reading copy.
- (D) Do not pass: the bill is not recommended for approval but is placed on second reading.
- (E) Do not pass as amended: the bill after amendment and engrossing is not recommended for approval but is placed on second reading.
- (F) To table: a motion to set aside consideration of a bill. The bill remains in committee

and is not reported to the house. This motion is often used to finally dispose of a bill without requiring consideration by the Committee of the Whole.

(G) To take from the table: a motion to resume the consideration of a bill previously set aside.

(H) Postpone action: consideration of the bill is delayed often to a date certain.

(I) Reconsider action: a motion to bring up a bill previously voted on but that has not yet been reported from the committee. The motion to reconsider action is usually made for the purpose of attempting to override a prior vote or to allow reconsideration of adopted or defeated amendments.

(J) Be concurred in: the bill received from the other house is recommended to be placed on second reading in the form received by the committee.

(K) Be concurred in as amended: the bill received from the other house is recommended to be placed on second reading with the amendments adopted by the committee engrossed into the second reading copy.

(L) Not be concurred in: the bill received from the other house is not recommended for approval but is placed on second reading.

(M) Not be concurred in as amended: the bill received from the other house after amendment and engrossing is not recommended for approval but is placed on second reading.

Note: The following motions are discouraged: do not pass, do not pass as amended, not be concurred in, and not be concurred in as amended. These motions result in the use of valuable Committee of the Whole time and the use of limited staff resources for disfavored bills. The committee should consider tabling the bill unless the bill is considered worthy of full debate in the Committee of the Whole.

10. DISPOSITION OF BILLS

After the hearing and executive session, which may include consideration of amendments or subcommittee reports, a motion must be made to dispose of the bill. The appropriate motions are as follows: do pass, do not pass, do pass as amended, do not pass as amended, be concurred in, be concurred in as amended, not be concurred in, not be concurred in as amended, or table. A substitute motion may be made for any pending motion. Only one substitute motion to the original motion may be offered. Adequate discussion should be allowed before voting on each motion. If a substitute motion is offered, it is voted on first. If the substitute motion fails, the original motion is considered. If the substitute motion and the original motion are opposing motions, the presiding officer may announce that without objection, the vote on the substitute motion will be reversed and recorded as the vote on the original motion. A bill requiring a fiscal note may not be reported from the committee without the fiscal note. The statute allows up to 10 days for the preparation of a fiscal note. If a fiscal note does not accompany the bill when the bill is assigned to the committee, the presiding officer should ask the Speaker of the House or the President of the Senate to request a fiscal note as soon as the need is indicated. If the committee action has rendered an existing fiscal note inaccurate or has resulted in the need for a fiscal note, the presiding officer should ask the Speaker of the House or the President of the Senate to request a new fiscal note. If the bill originated in the other house, arrangements should be made by the sponsor of the bill for a member to carry the bill in the Committee of the Whole. When the

sponsor has not arranged for a member to carry the bill, the presiding officer may designate a member to move the bill.

11. COMMITTEE REPORT

A report is prepared for each bill that is recommended to the Committee of the Whole. If amendments are made to the bill, the committee staff will prepare the amendments for inclusion in the committee report. The committee secretary will work with the committee staff and the amendments coordinator to prepare the committee report. The report must be signed by the committee presiding officer. Before signing the report, the presiding officer should read the report to ensure that it accurately reflects the action of the committee.

IV. CONFERENCE COMMITTEES

When the second house amends a bill, those amendments are returned to the sponsor's house for approval or rejection. Upon rejection of the amendments and passage of a motion to create a conference committee, the leadership appoints three senators and three representatives, usually from the committees that considered the bill, to be conferees to reconcile the differences concerning the bill. Some conference committees meet with full formality. A simple conference committee is limited to consideration of the disputed amendments. A free conference committee is free to consider the entire bill. In a conference committee, the members of each house vote separately and a majority of each house is necessary to adopt a report.

Appendix

COMMITTEE RULES OF PROCEDURE

A. Public Hearings.

- (1) Witnesses wishing to present testimony must sign the witness sheet.
- (2) The sponsor of the bill opens on the bill.
- (3) Proponents of the bill will present testimony -- time subject to limitation by the presiding officer.
- (4) Opponents of the bill will present testimony -- time subject to limitation by the presiding officer.
- (5) Proponents and opponents should try to state new points in testimony and avoid redundancy. If a witness wishes to agree with points already made, a statement to that effect is sufficient.
- (6) Witnesses are encouraged to provide written testimony for the committee record. Witnesses should not read the written testimony. Suggested amendments must be provided in written form.
- (7) Witnesses who have already given testimony should remain until the hearing is closed in order to respond to questions from the committee.
- (8) Questions may not be directed between proponents and opponents. All questions must be directed through the presiding officer. Courtesy is required of all parties.
- (9) The sponsor of the bill closes on the bill.

B. Executive Session

- (1) Executive action will not be taken until all bills scheduled for hearing on that day are heard. Executive action on bills is usually delayed until a later meeting in order to allow time for deliberation.
- (2) Executive sessions are open to the public. However, questions and comments are limited to committee members.